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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/764,094	01/23/2004	Jeannic Holmes	022265.0131PTUS (018220.0)	8557
7590	06/21/2005		EXAMINER RAJGURU, UMAKANT K	
IP Department Patton Boggs, LLP 2001 Ross Avenue Suite 3000 Dallas, TX 75201			ART UNIT 1711	PAPER NUMBER
DATE MAILED: 06/21/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/764,094

Applicant(s)

HOLMES ET AL.

Examiner

Umakant K. Rajguru

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 February 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) 19-27 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

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1. A response (to the nonfinal rejection of November 12, 2004) has been filed on February 18, 2005.
2. Claims being examined are 1-18.
3. Applicants' affirmation to election without traverse of group I, claims 1-18 & 27 is noted.
4. Rejections of above claims set forth in items 4 & 5 of prior Office action of November 12, 2004 are now withdrawn, following persuasive arguments of applicants against said rejections.
5. Allowance of claims 8, 9, 17 & 18 (see item 6 of same Office action) is also withdrawn in view of following new rejections.
6. Rejection of claims 8 & 17 under 35 USC 112, second paragraph (see item 8 of same Office action) is now withdrawn.
7. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
8. Claims 1-3, 5-7, 10-12 and 14-16 are rejected under 35 U.S.C. 1039a) as being unpatentable over Rothmund (US 4459247) in view of Evans et al (US 4585848), Leep et al (US 3475332) and Sabate et al (US 537047) or Nogueria de Sousa (US 2002/0103275).

Rothmund describes method for producing earplugs from polysiloxane. Polysiloxane is admixed with expanding agents and crosslinking agents (abstract). A typical siloxane is presented by a formula in col. 3, lines 15-24. It reads on instantly

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claimed silicone polymer. Fillers like oxide of silica are added (col. 6, lines 51-53). A crosslinking agent is also included, one of them is a peroxide (col. 2, lines 60-64).

Rothmund is silent about (claimed) fumed silica and microsphere agent.

Evans describes fluorosilicone rubber composition comprising (a) a vinyl-containing base polymer, (b) a platinum catalyst and (c) a crosslinking polymer (col. 2, lines 30-68). Composition is cured in a mold by heating. Fumed silica is added as a filler (col. 5, lines 59-62).

Leeper discloses a fire extinguishing composition (a) finely divided carbon, silicon carbon and (b) inorganic bubbles (col. 1, lines 12-16). Effective bubbles are formed from soda lime borosilicate glasses (col. 2, lines 62-65).

Sabate discloses composition for stoppers. This composition is comprised of particles of cork or wood, microspheres and binding agent (abstract; col. 2, lines 49-62).

De Sousa also disclose a composition for stoppers. Such a composition comprises microspheres [0023].

It would have been obvious (a) to enhance tensile strength and toughness of composition of Rothmund by including fumed silica and (b) to impart elasticity, resiliency and lightness by including microspheres. It is noted that though Rothmund discloses production of earplugs, the said teaching can successfully be utilized to prepare (claimed) composition for a synthetic cork. It is also obvious to add toasted oak dust for reinforcement, because it is cheap & easily available.

Incidentally according to Leeper, soda-lime borosilicate glass can be used to make required microspheres.

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9. Claims 4 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rothmund (US 4459247) as applied to claim 1 above, and further in view of Sullivan et al (US 5652287).

Rothmund does not mention (claimed) chloroplatanic acid.

Sullivan discloses ductile resin compositions comprising (a) a poly (arylene sulfide) and (b) silicone rubber (abstract). Several curing catalysts are used for silicone rubber (col. 20-37). Chloroplatanic acid is a suitable catalyst.

It would have been obvious to effect rapid and complete curing of the compositions of Rothmund by including chloroplatanic acid in it.

10. Claims 8, 9, 17 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rothmund (US 4459347) in view of Evans et al (US 4585848) Leeper et al (US 347532), Sullivan et al (US 5652287) and Sabate et al (US 5317047) or Nogueria de Sousa (US 2002/0103275) as applied to claims 1 and 10 above, and further in view of Sumpter et al (US 5206329) and Wang (US 6750279).


Combination of Rothmund and other references does not mention silicon hydride and ethynyl cyclohexanol of claims 8, 9, 17 and 18.

Sumpter discloses organopolysiloxane composition containing siloxane hydride (col. 2, lines 1-24).

Wang describes silicone elastomer in which 1-ethynyl-1-cyclohexanol is added (col. 3 lines 32-34).

It would therefore have been obvious to (a) enhance mechanical strength of the product of composition of Rothmund by adding to siloxane hydride as a coupling agent


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 and (b) inhibit cure at room temperature and prevent unwanted cure by adding 1-ethynyl-1-cyclohexanol.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to U. K. Rajguru whose telephone number is (571) 272-1077. The examiner can normally be reached on Monday-Friday from 9:30 am to 6:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James J Seidleck can be reached on (571) 272-1078. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


U. K. Rajguru/af
June 6, 2005


James J. Seidleck
Supervisory Patent Examiner
Technology Center 1700